BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

| In the matter of: | |
|---|---|
| Federal-State Joint Board on Universal Service | CC Docket No. 96-45 |
| 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Mechanisms | CC Docket No. 98-171 |
| Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990 | CC Docket No. 90-571 |
| Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size | CC Docket No. 92-237<br>NSD File No. L-00-72 |
| Number Resource Optimization | CC Docket No. 99-200 |
| Telephone Number Portability | CC Docket No. 95-116 |

# REPLY COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND OF THE PEOPLE OF THE STATE OF CALIFORNIA

The California Public Utilities Commission and the People of the State of California (California or CPUC) respectfully submit these Reply Comments in response to the Notice of Proposed Rulemaking (*NPRM*) issued by the Federal Communications Commission (FCC or Commission) on May 8, 2001. In the *NPRM*, the FCC seeks comment on how to streamline the assessment of carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers. The Commission has set forth a number of proposed rules in this *NPRM* and the CPUC comments here only on some of these proposals. Silence on the other issues connotes neither agreement nor disagreement with the Commission's proposals.

Currently, the FCC's rules provide that carrier's universal service contributions are assessed as a percentage of the carrier's interstate and international end-user telecommunications revenues.[1] The interval between the accrual of revenues by carriers and the assessment of universal service contributions based on those revenues is approximately six months. The Commission has not generally specified a particular method of recovery for carriers electing to recover their universal service contributions from their customers. Rather, the Commission has required that contributors not shift more than an equitable share of their contributions to any customer or group of customers, and that carriers provide accurate, truthful, and complete information regarding the nature of the charge.

In California, our Universal Service Contribution System (USCS)[2] is funded by a carrier's current month intrastate billings, minus an estimated uncollectible (based upon an approved and/or historical uncollectible factor) multiplied by the applicable surcharge

[1] See 47 C.F.R. sections 54.706, 54.709, 54.711.
[2] The USCS funds six public programs, including the California High Cost Fund-A, California High Cost Fund-B, California Teleconnect Fund, Universal Lifeline Telephone Services, and California Relay

rate. The funding for each public program which is a part of California's USCS is based upon Commission-approved surcharge rates on intrastate billings for end-users. Under this framework, the actual intrastate revenue might be different, possibly lower or higher, than the billed revenues. The carriers then must adjust future surcharge payments resulting from the difference from the billed revenue and the collected revenue. This billing process is used by all of California's intrastate carriers. Carriers recover their universal service contributions from their customers by collecting end-user surcharge payments on a monthly basis.

## I. ASSESSMENT OF UNIVERSAL SERVICE CONTRIBUTIONS

The Commission seeks comment on a proposal to require carriers to contribute to the universal service mechanisms based on a percentage of their collected, instead of gross-billed, interstate and international end-user telecommunications revenues. (NPRM, paras. 22-23) The Commission also seeks comment on a proposal to assess universal service contributions on a flat-fee basis, such as a per-line or per-account charge. (NPRM, par. 25.)

Many commenters support basing carrier contributions to the universal service mechanisms on revenues or usage, and not on a flat-fee basis.[3] California specifically supports the Commission's proposal to base carrier contributions to the universal service

///

---

Service/Communication Device Fund.

[3] See, e.g. SBC, p. 4; Qwest, pp. 3-5; United States Telecom Association (USTA), p. 4; USTA Reply Comments, p.2; National Exchange Carrier Association (NECA), p. 2, 6; Time Warner Telecom (TWT), p. 2.

mechanisms on collected interstate and international end-user telecommunications revenues, and not on a flat-fee basis. We believe that basing carrier contributions on collected revenues would be equitable and non-discriminatory for ratepayers as the carrier's cost would be based on the interstate usage of the phone and all interstate services subscribed by individual ratepayers. Under the Commission's proposal, carriers would no longer need to engage in complex calculations to account for such variables as uncollected revenues, credits, and the need to recover universal service contributions from a declining revenue base. In addition, because the Commission's methodology would be based on collected, as opposed to gross-billed revenues, carriers would not have to recover from its customers any difference between the amount assessed by the Commission and the amount collected nor would carriers have to boost the Commission's contribution factor for universal service in order to account for "uncollectible" revenue and other variables. By reducing the interval between the reporting of revenues and the assessment of contributions, the proposal would simplify the assessment and recovery of universal service contributions for carriers and consumers and not place carriers with declining interstate end-user telecommunications revenues at a competitive disadvantage to carriers with increasing revenues. In addition, we believe that collected revenues are easy to administer and to audit by external auditors because no estimating or forecasting is involved.

The Commission also seeks comment on whether and how their proposals would reduce existing carrier reporting requirements. (*NPRM*, par. 37.) Currently, the FCC's interval between the reporting of revenues by carriers and assessment of universal service contributions based on those revenues is approximately six months.[4] (NPRM, par. 20.) Carriers in California are required to report their current billings 40 days after the end of the billing month. In addition, carriers' payments to each universal service fund are due 40 days after the end of the current billing month. Most of the carriers are, in fact, electronically reporting the surcharge amounts each month. Exceptions are made for small carriers with less than $10,000 revenues per month to report and make payments to the funds on a quarterly basis. By basing carrier contributions on collected revenues, it will inevitably reduce the current six month interval used under the current Commission rules.

## II. RECOVERY OF UNIVERSAL SERVICE CONTRIBUTIONS

The Commission proposed that if a carrier chooses to recover its contributions through a line-item or "surcharge" on end user bills, the carriers are required to do so through a line-item that corresponds to the prescribed percentage, per-line, or per-account assessment established by the Commission on a quarterly basis. (NPRM, par. 42.) As mentioned previously, in California, the carriers recover their California universal service contributions by collecting surcharge payments, which corresponds to the prescribed percentage assessment established by the CPUC, from their end-user customers on a monthly basis. To the extent carriers choose to recover universal service contributions from their customers through line items, California believes, along with other

[4] See Federal-State Joint Board on Universal Service, Petition for Reconsideration filed by AT&T, CC Docket No. 96-45, *Report and Order and Order on Reconsideration*, FCC 01-85, at para. 2 (rel. Mar. 14, 2001).

commenters, that the universal service line-item or "surcharge" must correspond to the prescribed percentage assessment established by the FCC.[5] Basing the surcharge on a percentage of the customer's usage is consistent with the Commission's directive that contributors not shift more than an equitable share of their contributions to any customer or group of customers. Any non-revenue based surcharge would be inequitable because, among other things, it would discriminate against low-volume users who would pay a higher disproportionate amount than high-volume users.

Respectfully submitted,

GARY COHEN
LIONEL B. WILSON
JONADY HOM SUN

By: /s/ JONADY HOM SUN

JONADY HOM SUN

505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 703-1470
Fax: (415) 703-2262

Attorneys for the California Public Utilities Commission and the People of the State of California

August 2, 2001

[5] See, e.g. SBC, pp. 3, 8; American Public Communications Council (APCC), p. 2; Comments of Center for Digital Technology (CDD), pp. 6-7; Texas Office of Public Utility Counsel, p. 6.